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Remarks

Claims 1 – 20 are pending in the application.

Claims 1 – 20 are rejected under 35 U.S.C. 112, ¶2, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 – 20 are rejected under 35 U.S.C. §103(a) as being unallowable over Fischer, U.S. Publication No. 2003/0214930 A1 (hereinafter "Fischer") in view of Zehavi, U.S. Patent No. 5757767 B1 (hereinafter "Zehavi"), further in view of Eldar et al., U.S. Publication No. 2005/0216616 A1 (hereinafter "Eldar").

Each of the various rejections and objections are overcome by amendments that are made to the specification, drawing, and/or claims, as well as, or in the alternative, by various arguments that are presented.

Any amendments to any claim for reasons other than as expressly recited herein as being for the purpose of distinguishing such claim from known prior art are not being made with an intent to change in any way the literal scope of such claims or the range of equivalents for such claims. They are being made simply to present language that is better in conformance with the form requirements of Title 35 of the United States Code or simply is clearer and easier to understand than the originally presented language. Any amendments to any claim expressly made in order to distinguish such claim from known prior art are being made only with an intent to change the literal scope of such claim in the most minimal way, i.e., simply to avoid the prior art in a way that leaves the claim novel and not obvious in view of the cited prior art, and no equivalent of any subject matter remaining in the claim is intended to be surrendered.

Also, because a dependent claim inherently includes the recitations of the claim or chain of claims from which it depends, it is submitted that the scope and content of any dependent claims that have been herein rewritten in independent form is exactly the same as the scope and content of those claims prior to having been rewritten in independent form. That is, although by convention such rewritten claims are labeled herein as having been "amended," it is submitted that only the format, and not the content, of these claims has been changed. This is true whether a dependent claim has been rewritten to expressly include the limitations of those claims on which it formerly depended or whether an

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independent claim has been rewritten to include the limitations of claims that previously depended from it. Thus, by such rewriting no equivalent of any subject matter of the original dependent claim is intended to be surrendered. If the Examiner is of a different view, he is respectfully requested to so indicate.

Rejection Under 35 U.S.C. §112

Claims 1 – 20 are rejected under 35 U.S.C. §112, ¶2, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Examiner indicates that it is unclear what is meant by “orthogonally combining” and that Applicants’ specification is silent with respect to this limitation. Applicants respectfully disagree.

Applicants respectfully submit that this limitation is sufficiently clear to a person skilled in the art. The term orthogonal is well known in the art. Further, Applicants would like to draw the Examiner’s attention, for example, to the following parts of the originally filed specification: page 8, lines 4 – 32 and page 15, lines 1 – 18, where “orthogonally combining” is described.

Accordingly, Applicants respectfully submit that the limitation of “orthogonally combining” is sufficiently clear, and thus, claims 1 – 20 fully satisfy the requirements of 35 U.S.C. §112, ¶2. The Examiner is respectfully requested to withdraw the rejection.

Rejection Under 35 U.S.C. §103

Claims 1 – 20

Claims 1 – 20 are rejected under 35 U.S.C. §103(a) as being unallowable over Fischer in view of Zehavi, further in view of Eldar. The rejection is traversed.

According to MPEP §2143, to establish a *prima facie* case of obviousness under §103, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable

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expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

According to MPEP §2143.03: "All words in a claim must be considered in judging the patentability of that claim against the prior art" (*quoting, In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970)). In addition, to establish a *prima facie* case of obviousness the prior art reference (or references when combined) must teach or suggest all elements of the subject claim. *In re Wada*, 2007-3733 (BPAI Jan. 14, 2008) (*citing, CMFT, Inc. v. Yieldup Intern. Corp.*, 349 F.3d 1333, 1342 (Fed.Cir. 2003)).

The Office Action fails to establish a *prima facie* case of obviousness, because the suggested combination of the references does not teach all of the elements of each of the independent claims. More specifically, the Examiner suggests that Fisher does not teach or suggest at least:

"sorting data packets received during a predetermined time period into groups according to for which communication device of said network the received data packets are intended."

as recited in independent claim 1 (emphasis added).

The Examiner suggests that Fisher clearly shows which packets are stored in a particular RX FIFO memory in Fig. 5. "For example, packets for Ethernet MAC go to the RX FIFO connecting to the module of 'Ethernet MAC;' while packets for 802 11e MAC go to the RX FIFO connecting to the module of '802 11e MAC'" (see Office Action, pages 2 – 3). Applicants respectfully disagree with the Examiner's rationale.

More specifically, Fig. 5 illustrates a WLAN interactive device including a processor 520. The processor 520 provides for Internet communication connectivity and may employ several different architectures for this purpose, namely V.92 Modem, 802.11 MAC, and Ethernet MAC, where each of such architectures is in communication with corresponding RX/TX FIFO memory. Accordingly, while packets for Ethernet MAC might arrive to RX/TX FIFO corresponding to the Ethernet MAC, this happens only because such packets were transmitted using this particular architecture, i.e. Ethernet MAC. However, because the packets are transmitted using this particular architecture, and because a particular RX/TX FIFO supports only this architecture, no sorting of the packets is needed.

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Furthermore, assuming *arguendo* that the packets are sorted according to type of the architecture used, Fisher still fails to teach Applicants' limitation of claim 1. Applicants' claim 1 recites "sorting ... into groups according to for which communication device ... the ... data packets are intended." Sorting packets according to the intended destination device is different from sorting according to the type of architecture such a device may support. For example, if the destination device supports multiple architectures, such as WLAN interactive device of Fisher, packets will be placed in different types of RX/TX FIFO memories depending on the types of architecture used to transmit the packets even when the packets are destined to the same device. On the other hand, packets destined to different devices might be placed in the same RX/TX FIFO because such packets are transmitted according to the same type of architecture. In other words, in Fisher, the type of architecture used to transmit the packet determines a particular RX/TX FIFO memory in which the packet will be placed, unlike Applicants' embodiment of claim 1, where a particular communication device for which the packet is intended determines a group to which the packet will be assigned. Therefore, Fisher does not teach or suggest the "sorting" element of claim 1.

Moreover, the suggested combination of the reference fails to teach the "sorting" element of claim 1 because the Examiner fails to provide a proper reference for teaching: "sorting data packets received during a predetermined time period." More specifically, the Examiner states that Eldar discloses a timer for defining a time period for receiving data packets (see Office Action, page 6). However, whether Eldar describes such a timer is irrelevant because Eldar does not qualify as a prior art under 35 U.S.C. §102. In particular, the filing date of the present application, i.e., March 10, 2004, is earlier than Eldar's publication date, i.e., September 2005, and Eldar's filing date, i.e., March 23, 2004. Therefore, because at least one of the references used to support the 103 rejection of claim 1 is an improper reference, a *prima facie* case of obviousness has not been established.

Additionally, the suggested combination of the references does not disclose:

"respectively time aligning the data packets in each of the groups,"
as recited in independent claim 1 (emphasis added).

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As discussed previously, in Fisher, packets are transmitted in streams, where each stream has a unique stream ID and the packets transmitted within the stream are assigned consecutive sequence numbers starting with an arbitrary number (see Fisher: e.g., paragraph [0071] – [0072]). Assuming *arguendo*, that the sequence number indicates a time aligned data packet, when a receiver receives a stream of packets, all of such packets are already time aligned, and thus, there is no need to time align the packets. The Examiner states that “[i]t does not matter how much work needs to be done for sorting and time aligning, as soon as the received packets are in the desired status” (see Office Action, page 3. However, Applicants do not claim the result of the packets being time aligned. Rather, Applicants’ claim 1 expressly recites an active step of “respectively time aligning the data packets in each of the groups.” Thus, even if packets in the Fisher arrangement were to be in the time aligned state, because Fisher does not disclose a process of time aligning the packets, the above recited element of claim 1 is not taught or suggested by Fisher.

Therefore, the combination of Fischer, Zehavi, and Eldar does not teach or suggest all of the elements of Applicants’ claim 1, and thus, a *prima facie* case of obviousness with respect to claim 1 has not been established. Independent claims 12, 19, and 20 recite at least elements similar to the elements discussed above. Accordingly, similar to claim 1 and for at least the reasons discussed above, a *prima facie* case of obviousness with respect to claims 12, 19, and 20 has not been established.

Additionally, with respect to independent claims 12, 19, and 20, Fisher fails to disclose:

“an addressing device for defining a storage location for said received data packets according to for which communications device of said network the received data packets are intended”

(emphasis added). The Examiner appears to suggest that because in Fisher packets are identified by a destination MAC address, Fisher’s processor 520 determines a storage location according to such a MAC address. However, identifying packets by a destination MAC address is different from defining a storage location for a packet according to a device such a packet is suppose to reach. Fisher does not teach having separate sections of memory, where each section is associated with a particular MAC address or a group of MAC addresses. Rather Fisher merely suggests that the processor

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520 may use the destination MAC address to determine where the packet should be transmitted. Thus, in Fisher, two packets destined to the same MAC address may be stored at different locations while packets destined to different MAC addresses could be stored at the same location.

Accordingly, the combination of Fischer, Zehavi, and Eldar does not teach or suggest all of the elements of Applicants' claims 12, 19, and 20, and thus, a *prima facie* case of obviousness with respect to claims 12, 19, and 20 has not been established. Because all of the dependent claims depending from the independent claims include all of the limitations of the respective independent claim from which they ultimately depend, each such dependent claim is also allowable under 35 U.S.C. §103(a) over Fischer in view of Zehavi, further in view of Eldar. Therefore, claims 2 – 11 and 13 – 18 are allowable under 35 U.S.C. §103(a) over Fischer in view of Zehavi, further in view of Eldar.

The Examiner is respectfully requested to withdraw the rejection.

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Conclusion

It is respectfully submitted that the Office Action's rejections have been overcome and that this application is now in condition for allowance. Reconsideration and allowance are, therefore, respectfully solicited.

If, however, the Examiner still believes that there are unresolved issues, the Examiner is invited to call Eamon Wall at (732) 842-8110 x 120 so that arrangements may be made to discuss and resolve any such issues.

Respectfully submitted,

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